

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

JOSEPH A. BARKER, REGIONAL DIRECTOR  
OF REGION 13 OF THE NATIONAL LABOR  
RELATIONS BOARD, FOR AND ON BEHALF  
OF THE NATIONAL LABOR RELATIONS  
BOARD

Petitioner

v.

INDUSTRIAL HARD CHROME, BAR  
TECHNOLOGIES LLC, FLUID POWER  
MANUFACTURING, A SINGLE EMPLOYER

Respondent

Civil No. 08 CV 2771

Judge Gottschall

Magistrate Judge Valdez

**MOTION TO TRY PETITION FOR PRELIMINARY INJUNCTION  
UNDER SECTION 10(J) OF THE NATIONAL LABOR RELATIONS ACT  
ON THE BASIS OF THE ADMINISTRATIVE LAW JUDGE'S HEARING  
TRANSCRIPT AND EXHIBITS, TO FILE PETITIONER'S  
MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF  
PETITION, TO CORRECT CERTIFICATE OF SERVICE, AND FOR  
ORAL ARGUMENT**

Now comes Elizabeth S. Cortez, Counsel for Petitioner, and requests the Court to: base its decision on the merits of the Petitioner's preliminary injunction request, in part, on the transcripts and exhibits of the administrative proceedings before an Administrative Law Judge of the National Labor Relations Board; accept Petitioner's Memorandum of Points and Authorities in Support of Petition for Injunction after receipt of the transcript of the administrative hearing; to correct the certificate of service; and to hear oral argument. In support of these motions Counsel for Petitioner states as follows:

1. On May 13, 2008, Petitioner filed with this Court a Petition For Preliminary Injunction Under Section 10(j) Of The National Labor Relations Act (herein called the Act) [29 U.S.C. Section 160(j)].

2. Public Law 98-620, 28 U.S.C. Section 1657, requires that this Court expedite the consideration of any action for preliminary injunctive relief, or any other action, if good cause therefore is shown. "Good cause" is shown if a right under a federal statute "would be maintained in a factual context that indicates that a request for expedited consideration has merit." *Id.*

3. A hearing before an Administrative Law Judge of the National Labor Relations Board on the allegations of the complaint underlying the Petition for Injunctive Relief will commence on June 23, 2008, and is anticipated to conclude on June 25, 2008. The parties will have the opportunity to present and to cross examine witnesses and present any relevant evidence in the administrative proceedings. A full and complete transcript of these proceedings is anticipated to be received by the Petitioner no later than July 7, 2008.

4. The District Court need not proceed to a full evidentiary hearing in this matter. Petitioner maintains that the Court may utilize the transcripts and exhibits of the administrative proceeding to evaluate the issue of the Petitioner's likelihood of success on the merits of the underlying proceeding before the National Labor Relations Board as set forth in *Kinney v. Pioneer Press*, 881 F.2d 485, 490 (7th Cir. 1993) and *NLRB v. Electro Voice, Incorporated*, 83 F.3d 1559, 1566 (7th Cir. 1996). However, if the administrative record does not contain all the evidence relating to the equitable criteria for injunctive relief, a matter beyond the purview of the administrative proceeding, it may be necessary for the parties to present further evidence on these elements of the case. Therefore, if necessary, Petitioner requests leave for the parties to present evidence on the equitable criteria for injunctive relief in the form of witness testimony and/or affidavit evidence, as well as an opportunity to orally argue the overall merits of the petition for equitable relief before this Court.

5. The Certificate of Service attached to the Petitioner's Petition for Preliminary Injunction as referenced above was dated May 13, 2008, but should be dated May 14, 2008.

**WHEREFORE**, Petitioner respectfully moves that this Court:

1) Grant Petitioner's Motion to Try Petition for Injunction Under Section 10(j) of the National Labor Relations Act On Basis Of The Administrative Law Judge's Hearing Transcript and Exhibits of the underlying proceeding before the National Labor Relations Board;

2) File Petitioner's Memorandum of Points and Authorities in Support of Petition for Injunction Under Section 10(j) of the Act after receipt of the transcript of the administrative proceedings by this Court.

3) Set hearing for "Just and Proper" evidence, if necessary, on July 17, 2008, or as soon thereafter as a hearing may be scheduled on Petitioner's application for injunctive relief.

4) Set hearing for oral argument on July 17, 2008, or as soon thereafter as a hearing may be scheduled on Petitioner's application for injunctive relief.

**DATED** at Chicago, Illinois this 19th day of May, 2008.

/s/ Elizabeth S. Cortez, filed electronically

Elizabeth S. Cortez

Counsel for Petitioner

National Labor Relations Board, Region 13

209 South LaSalle Street, Suite 900

Chicago, Illinois 60604

(312) 353-4174

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**CERTIFICATE OF SERVICE**

The undersigned hereby certify that true and correct copies of the Motion to Try Petition for Preliminary Injunction Under Section 10(j) of the National Labor Relations Act On Basis Of The Administrative Law Judge's Hearing Transcript and Exhibits, To File Petitioner's Memorandum Of Points And Authorities In Support Of Petition, To Correct Certificate of Service, And For Oral Argument, have, this 19th day of May, 2008, been served in the manner indicated upon the following parties of record:

**Certified Mail**

Industrial Hard Chrome LTD., Bar Technologies LLC,  
Fluid Power Manufacturing, A Single Employer  
501 Fluid Power Drive  
Geneva, IL 60134  
Attn: Mr. Fred Parker

Wessels & Pautsch, P.C.  
33 W. Monroe, Suite 1120  
Chicago, IL 60603  
Attn: Walter J. Liszka, Esq.  
Christina Lopez-Nutzman, Esq.

United Steel, Paper & Forestry, Rubber, Manufacturing,  
Energy, Allied Industrial & Service Workers International  
Union AFL-CIO-CLC  
1301 Texas Street, Room 200  
Gary, IN 46402  
Attn: Anthony Alfano, Esq.

*/s/ Elizabeth S. Cortez, filed electronically*  
Elizabeth S. Cortez  
Counsel for Petitioner  
National Labor Relations Board, Region 13  
209 South LaSalle Street, Suite 900  
Chicago, Illinois 60604  
(312) 353-4174

**CORRECTED CERTIFICATE OF SERVICE**

The undersigned hereby certify that true and correct copies of the Petition for Preliminary Injunction Under Section 10(j) of the National Labor Relations Act, have, this 14th day of May, 2008, been served in the manner indicated upon the following parties of record:

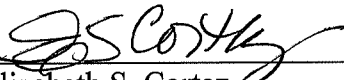
**Certified Mail**

Industrial Hard Chrome LTD., Bar Technologies LLC,  
Fluid Power Manufacturing, A Single Employer  
501 Fluid Power Drive  
Geneva, IL 60134  
Attn: Mr. Fred Parker

United Steel, Paper & Forestry, Rubber, Manufacturing,  
Energy, Allied Industrial & Service Workers International  
Union AFL-CIO-CLC  
1301 Texas Street, Room 200  
Gary, IN 46402  
Attn: Anthony Alfano, Esq.

**Hand Delivered**

Wessels & Pautsch, P.C.  
33 W. Monroe, Suite 1120  
Chicago, IL 60603  
Attn: Walter J. Liszka, Esq.  
Christina Lopez-Nutzman, Esq.

  
\_\_\_\_\_  
Elizabeth S. Cortez  
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National Labor Relations Board, Region 13  
209 South LaSalle Street, Suite 900  
Chicago, Illinois 60604  
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